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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

BOARD OF TRUSTEES OF THE  
CONSTRUCTION INDUSTRY AND  
LABORERS JOINT PENSION TRUST  
FOR SOUTHERN NEVADA and THE  
CONSTRUCTION INDUSTRY AND  
LABORERS JOINT PENSION TRUST  
FOR SOUTHERN NEVADA

Plaintiffs,

vs.

SUPERIOR GUNITE, a foreign corporation,

Defendant.

Case No.:

**COMPLAINT**

Plaintiffs allege:

**JURISDICTION AND VENUE**

1. The claim at issue in this Complaint presents a present, actual, and justiciable controversy arising under federal law.

2. The Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question). This Court additionally has subject matter jurisdiction to enforce a pension benefit plan's collection of withdrawal liability assessed against an employer under the Employee

1 Retirement Income Security Act of 1974 (“ERISA”), as amended by the Multiemployer Pension  
2 Plan Amendments Act of 1980 (“MPPAA”), specifically at 29 U.S.C. § 1401(b)(1).

3 3. Venue is proper under 29 U.S.C. § 1451(d) because the Pension Trust is  
4 administered in Clark County, Nevada.

5 **PARTIES**

6 4. Plaintiffs are the Board of Trustees of the Construction Industry and Laborers Joint  
7 Pension Trust for Southern Nevada (the “Board of Trustees”) and the Construction Industry and  
8 Laborers Joint Pension Trust for Southern Nevada (the “Pension Trust”) (collectively referred to  
9 as “Plaintiffs”).

10 5. The Board of Trustees is made up of fiduciaries of the Pension Trust for purposes  
11 of ERISA.

12 6. The Pension Trust is an “employee benefit pension plan” as defined in 29 U.S.C. §  
13 1002(2); and a “multiemployer plan” as defined in 29 U.S.C. §§ 1002(37) and 1301(a)(3).

14 7. Defendant, Superior Gunité is a foreign corporation and is an employer within the  
15 meaning of 29 U.S.C. § 1002(5).

16 **FACTUAL BACKGROUND**

17 8. Superior Gunité was a signatory to a collective bargaining agreement that required  
18 Superior Gunité to make employee benefit contributions to the Pension Trust.

19 9. During the plan year ending on December 31, 2017, Superior Gunité withdrew  
20 from the Pension Trust by ceasing to make contributions. This withdrawal constituted a complete  
21 withdrawal under 29 U.S.C. § 1383.

22 10. On September 29, 2021, the Pension Trust sent a withdrawal liability assessment  
23 and demand for payment to Superior Gunité in the amount of \$93,024, with the first quarterly  
24 payment of \$10,675 due on November 1, 2021.

25 11. Superior Gunité did not pay its first quarterly payment. As a result, the Pension  
26 Trust provided Superior Gunité with written notice that it was delinquent on its payments, and  
27 provided 60 days for Superior Gunité to cure the default.

12. To date, Superior Gunite has refused to pay its withdrawal liability assessments in accordance with the Pension Trust's schedule for withdrawal liability payments.

**SOLE CAUSE OF ACTION**

**(Judgment for Withdrawal Liability)**

13. Plaintiffs hereby incorporate the allegations contained in paragraphs 1 to 12 as though fully set forth herein.

14. This dispute is a case of actual controversy within this Court's jurisdiction.

15. The Pension Trust provided Superior Gunite with a withdrawal liability assessment, and Superior Gunite has failed to make the required payments. The Pension Trust gave Superior Gunite a 60-day period to cure the default, but Superior Gunite has failed to make any payments to the Pension Trust.

16. Due to Superior Gunite's failure to make payments on the schedule set by the Pension Trust, Plaintiffs seek a judgment for the entire assessed withdrawal liability amount, as well as interest, liquidated damages, attorney's fees.

**WHEREFORE**, Plaintiffs pray for relief as follows:

1. A judgment in favor of the Pension Trust awarding the entire withdrawal liability owed by Superior Gunite, interest, liquidated damages, and attorney's fees; and

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2. For such other and further relief as the Court deems proper.

Dated: February 10, 2022.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

/s/ Christopher M. Humes

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